

**FREEDOM OF INFORMATION COMMISSION STATEMENT
ON SB 423, AN ACT CONCERNING RECOMMENDATIONS OF THE CONNECTICUT
TOWN CLERKS CONCERNING DISCLOSURE AND ELECTIONS LAWS
March 12, 2010**

The Freedom of Information Commission ("FOIC") applauds the intent of Section 1 of this proposed legislation. But because the scope of the bill is incomplete, we support its adoption only with the modifications outlined below.

The bill's goal is to clarify Section 1-217. That section says "no public agency may disclose, under the Freedom of Information Act, the residential addresses of any of the following persons..."

The enumerated list of protected categories of employees encompasses hundreds, or possibly thousands, of residential addresses. Some people claim that Section 1-217 applies to *all* public records, even those that have been required to be complete, without any redactions, and open for public inspection for hundreds, even thousands of years: for example, tax rolls, land records, and voter lists. Withholding hundreds of residential addresses would rip great holes in the fabric of such important records and destroy the integrity of those records on which we all depend.

Further, such an interpretation places the officials responsible for maintaining very significant public records in a terrible quandary - they must decide whether to attempt to comply with the provisions of 1-217 (a near impossible feat) or to comply with other mandatory disclosure statutes.

For, example, Conn. Gen. Stat. §§7-24, 12-55, 12-139, 22-338 and 9-54 are statutes designed to protect the full disclosure of land records, grand lists, voter registration lists and dog licenses. The identities and addresses of the parties involved are both necessary and integral to those records as well as to the reasons why they are publicly available.

Significantly, none of these records identify the subject individuals as falling within the employee categories set forth in Conn. Gen. Stat. §1-217. In fact, the record custodian, in many instances the town clerk or assessor, would have no way of knowing from the information provided in the records themselves whether any individual involved in the transactions recorded in such records would fall within one of Section 1-217's categories.

The chaos that would ensue should land records alone be subject to Section 1-217 would be unfathomable. How would real estate transactions be carried out? The alteration of land records could compromise transactions, title searches, the service of process, the collection of debts and affect the ability to notify adjoining landowners as required in some instances by planning and zoning requirements.

The FOIC understands the security concerns associated with the release of the residential addresses of some on this list. However, especially in light of the easy access to such information in cyberspace, those security concerns cannot trump preserving the integrity of records that are required by law and history to be accurate, complete, and open for public inspection.

Late last year, the Superior Court affirmed that Section 1-217 as it is now written does not permit residential addresses to be hidden from public records such as grand lists, land records, voter lists, and vital records. Commissioner, Dept. of Public Safety et al. v. Freedom of Information Commission et al, 2009 Conn. Super. LEXIS 2872 (November 9, 2009). The case is now in the appellate courts, and a decision is anticipated later this year.

The proposal before you today aims to codify once and for all that land records, maps and surveys; trade names certificates; dog licenses; vital records; lists of appointed and elected officials; meeting minutes; petitions; and registry and enrollment lists of voters are not covered by 1-217.

The problem is that the bill applies only to records of a municipal clerk or registrar of vital statistics, and omits keepers of other records, such as assessors, who also maintain records that are required by law and history to be complete and open to the public for inspection.

The bill as written also omits many types of records, such as grand lists and tax foreclosure liens, that should be included in any exception to section 1-217.

The FOIC suggests adding grand list information and tax delinquency lists to the proposal in SB 423 and rewriting the amendment as follows:

Section 1. Section 1-217 of the general statutes is repealed and the following is substituted in lieu thereof :

(a) No public agency may disclose, under the Freedom of Information Act, the residential address of any of the following persons. The provisions of this subsection do not exempt from disclosure the residential addresses of elected officials or residential addresses listed on a grand list, tax delinquency list, land records, maps and surveys; trade names certificates; dog licenses; vital records; lists of appointed and elected officials; meeting minutes; petitions; and registry and enrollment lists of voters or any record that is otherwise required by law to be disclosed to the public.

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